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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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7590

03/12/2003

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EXAMINER

MAI, LANNA

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

08/975,940

Applicant(s)

COMMINS ET AL.

Examiner

Lanna Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 36-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-40, 43 and 47 is/are allowed.
- 6) ☐ Claim(s) 36, 41, 42 and 44-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 4/19/02 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 36, 41, 45 is rejected under 35 U.S.C. 102(e) as being anticipate by Timmerman, Sr. et al. (6,158,184).  
Fig. 1 and 4 show a bottom plate 11 resting on the underlying structural component or foundation 4 (or 124 in fig. 4), foundation anchor 12 (or 204 in fig. 4), vertical studs 114

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and 115, fasteners in the nailplate inherently connecting the studs to the bottom plate; a top plate 110 in fig. 4, nails in the top nailplate connecting the top plate to the vertical studs; a shear-resisting assembly including a planar shear-resisting element 26 (or 532 in fig. 5), a top strut 16 (or 534), a bottom strut 536 in fig. 5, a first chord and second chord 541, nails 544 connecting the top strut, bottom strut, first and second chord to the planar shear-resisting element; means, fasteners such as bolt 537 inherently can be used to connect the shear-resisting element to the top plate 110 of the wall shown in fig. 4; and foundation anchors such as bolts 204 would be used to secure the shear-resisting assembly to the underlying structural component of the building, holdowns 206 (or 6, 8 in fig. 1) and nut/bolts 30, 31 engage the holdowns .

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 42, 44, 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Timmerman, Sr. et al.

Timmerman et al. Does not show the threaded holdown fasteners inserted only a selected distance into the first and second chords without passing all the way through the first and second chords. It would have been obvious design choice to have the threaded holdown fasteners inserted a selected distance into the first and second chords without passing all the way through the first and second chords since applicants have not disclosed that inserting the holdown fasteners through the first and second

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chords solves any stated problem and it appears that the structure would perform equally well if the holdown fastener inserted a selected distance into the first and second chords.

As for claim 44, Timmerman et al. does not show the first and second chords being laminated wood members. However, it is well known and common to use laminated wood members instead of solid wood members to cut cost yet maintaining the structural integrity of the building.

For claim 46, to utilize intermediate studs between the top and bottom struts of the shear-resisting element and provide means to connect the intermediate studs to the top/bottom studs and the structural panels would have been a duplication of parts which is an obvious engineering design to improve the shear-resisting property of the structure. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8 (7<sup>th</sup> Cir. 1977).

#### ***Allowable Subject Matter***

Claims 37-40, 43, 47 are allowed.

#### ***Conclusion***

Any inquiry concerning this communication should be directed to Lanna Mai at telephone number 703-308-2486. Ms. Mai can normally be reached on M-F, 9:00-5:30 pm.

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The fax numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Lm

3-7-03

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

A handwritten signature in black ink, appearing to read 'Lanma Mai', is written below the printed name and title.